

**REMARKS**

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

By the foregoing amendment, claims 1, 3, 6, 7, 8, 11, and 12 have been amended. Thus, claims 1-12 are currently pending in the application and subject to examination.

The Interview kindly granted by the Examiner to the Applicant's representative on April 16, 2008 is noted with appreciation. No agreement was reached with respect to claim terminology.

**Rejection under 35 U.S.C. § 112**

In the Office Action mailed November 27, 2007, claims 1, 2 and 8-12 were rejected under 35 U.S.C. § 112, second paragraph. Claim 1, 8, 11, and 12 has been amended responsive to the rejection under 35 U.S.C. § 112. The meaning of the total sum volume of the pores of a certain size range has been expressed in words to more clearly set forth the invention. If any additional amendment is necessary to overcome the rejection, the Examiner is requested to contact the Applicant's undersigned representative.

The Office Action considered claims 1, 2, and 8 -12 as being unclear whether the ratio of the weight of carbon particles includes weight of catalyst material in the ratio of weight of ion conducting polymer to carbon particles. The weight of carbon articles does not include the weight of catalyst material, but is the weight of carbon particles itself according to the ordinary interpretation of claim language and as supported, for

example, in the description of Example 1 in the sentence overlapping pages 23 and 24 of the Specification.

**Rejection under 35 U.S.C. 103(a)**

In the outstanding Office Action, claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Denton et al., U.S. Patent No. 6,010,606 (hereinafter, "Denton") in view of Asano et al., WO 02/080294, with U.S. Publication No. 2004/0121211 (hereinafter, "Asano") relied upon for translation, since the U.S. application is a § 371 National Stage application of the PCT Application and Gorman et al., U.S. Publication No. 2002/0086195 (hereinafter, "Gorman"). Claims 8-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Denton in view of Asano and Gorman and in further view of Formanski et al., U.S. Publication No. 2003/0072980. It is noted that claims 1 has been amended. To the extent that the rejection(s) remain applicable to the claims currently pending, the Applicant hereby traverses the rejection, as follows.

Claims 1, 8, 11, 12 are amended to limit the total sum volume of the pores of a certain size range to a specific range of 6.06—7.26.

Within this range limitation, excellent effects as described below can be achieved.

As is apparent from Table 1, all of the polymer electrolyte fuel cells of the Examples 1-5 and 7-9 which fall within the above-identified limitation exert excellent electric power generation performance even under a low humidified condition compared to the case of the Comparative Example. Further, as is apparent from Table 2, all of the

polymer electrolyte fuel cells of the Examples 10—11, 13—16 which fall within the above-identified limitation exert excellent electric power generation performance even under a high humidified condition.

It is respectfully submitted that none of the prior art of record teaches or suggests the total sum volume of the pores having a specific pore diameter range as claimed. Absent any teaching of the same, it cannot be a known result-effective variable that it would be obvious to optimize. Consequently, there is a clear difference between the invention as claimed and prior art that produces the unexpected results as noted above.

Consequently, it is strongly contended that at least this clear difference exists between the present invention as claimed in Claims 1, 2, and 8 - 12 and the prior art relied upon. It is further contended that at least this difference is more than sufficient that the present invention as claimed would not have been rendered obvious to a person of ordinary skill in the art viewing those references.

### **Conclusion**

For all of the above reasons, it is respectfully submitted that claims 1-2 and 8-12 are in condition for allowance and a Notice of Allowability is earnestly solicited.

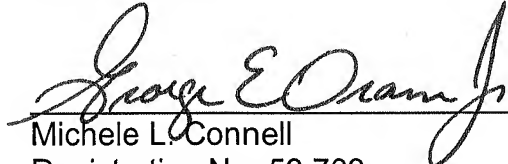
Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is invited to contact the undersigned representative at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this

communication to Deposit Account No. 01-2300 referencing client matter number 101175-00041.

Respectfully submitted,

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Enclosures: Petition for Extension of Time